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SUBJECT: COURT NULLIFIES ALBANIAN-GREEK SEA AGREEMENT

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Classified By: AMBASSADOR JOHN WITHERS FOR REASONS 1.4 (b) AND (d).

¶1. (C) Summary: On January 26, the Constitutional Court in a 9-0 opinion ruled that the April 2009 treaty between Greece and Albania regarding the southern coastline was unconstitutional. The opinion has not yet been released, but the Court said in a statement that it found "substantive and procedural" problems with the agreement. The 9-0 opinion was surprising as things are rarely unanimous in Albania, and the GOA had strongly and publicly defended the treaty when it first came under public fire. A Greek diplomat said he was "disappointed" in the ruling and suggested some "quid pro quo" would be in the works as Albania still needs Greece for many of the issues it is trying to tackle. End summary.

¶2. (C) On January 26, the Constitutional Court in a 9-0 opinion struck down Albania's April 2009 treaty with Greece regarding the southern coast of Albania. The treaty, which was signed last April in Tirana, came during the first visit of a Greek PM to Albania since 1992, and was as praised by the Greeks as it was panned by the Albanian media (reftel). Nearly every day since the treaty was signed, left leaning Gazeta Shqiptare published articles condemning the treaty, labeling it as biased, unfair, illegal, and unconstitutional. The opposition Socialist Party then asked the Constitutional Court to review the treaty. The Constitutional Court, it seems, agreed. However it has not published its reasoning yet, saying only that "procedural and substantive" issues were violated by the treaty. Most observers expect the Court's opinion to be published next week.

¶3. (C) Dr. Albert Rekipi of the Albanian Institute for Strategic Studies blamed the lack of GOA transparency for the dim view of the treaty. Rekipi said the GOA tried to ram the treaty through parliament and did not solicit support or advice from the opposition on what he termed a "national issue, Albania's land." He also questioned whether or not the MFA even had the necessary experts to negotiate such a treaty. Rekipi said the 9-0 ruling was extraordinary as the court rarely rules unanimously on anything. The highly unusual nature of the ruling has bred enormous speculation. Another observer suggested that the Court had to have had the clearance from PM Sali Berisha to make such a ruling since the terms of a few judges on the court expire soon and they would not want to jeopardize future appointments from the PM by going against Berisha's will. One long-time expat legal expert told PolOff that a 9-0 ruling by the court against the treaty "is inconceivable" unless the court received at least tacit approval by the GOA to reject the treaty. Grumblings over the treaty have also been heard from the military. Observers widely speculated that the treaty was a quid pro quo for Greek support for NATO and the Stabilization and Association Agreement (SAA).

¶4. (C) Ioannis Vikelidis of the Greek Embassy told poloff that the Constitutional Court's decision was "disappointing," adding that, from his point of view, the Greeks reached a binding agreement with Albania. However, Vikelidis said the Greeks will respect the ruling of the Court. He said the Albanian negotiators were the "cream of the crop" for Albania with legal, maritime, and military experts on hand during the negotiations and therefore if a new agreement must be reached, the Greeks would likely insist on a new composition of the Albanian side. He also vaguely suggested a "quid pro quo" for Albania, remarking that Albania has many issues on its plate that require Greek assent and/or assistance. He also pointed out that the Albanian side has not ratified the treaty concerning Greek cemeteries in Albania either, despite having had plenty of time to do so. (NOTE: The cemeteries would be for the remains of Greek soldiers killed in Albania during WWII. END NOTE). He also lamented the role of the media in the process, noting that it has fanned the flames of discontent and reported irresponsibly on this matter. He too expected the opinion to be released in a few weeks, ample time he said, for some "cooking" of the opinion. He questioned the precedent and example Albania is setting, saying that it should honor its agreements. Former Greek Foreign Minister Dora Bakoyannis, who was FM at the time of the treaty negotiations, said publicly that the annulment of the treaty was sought by "extremist" groups and said SP leader Edi Rama joined those groups in opposing the treaty and therefore bears some responsibility for this decision.

¶5. (C) Responding to the Court's decision, Deputy Prime Minister and Foreign Minister Ilir Meta affirmed the government's respect for the Court's decision, and the GOA's intention to respond to the Court's arguments once the full

decision is released. Further clarification on the sea borders with Greece and Montenegro remains a high priority for the GOA as it is a step towards Albania's EU membership, according to Meta. Meta also commented on the importance of Greek-Albanian relations, saying Greece remains one of the principal supporters of Albania's European integration and visa liberalization processes. Meta also cited the almost 1 million Albanians who live in Greece, and Greece's "firm support" for Albania's NATO membership.

¶6. (C) Comment: Last spring it seemed the Greeks and Albanians had ironed out all their differences. With the visit of then-PM Karamanlis and the signing of the sea and cemetery agreements, it seemed a new day had dawned. Ten months later, with one agreement declared unconstitutional and the other not ratified, the two sides appear to be back where they were before, suspicious and untrusting of one another, yet needing one another as well. The Court's 9-0 ruling is a rare show of harmony in this otherwise rabidly partisan political environment. Numerous observers have told Post that the GOA was caught off guard by the public backlash against the treaty, and may have nudged the Constitutional Court towards rejecting the treaty as a way of limiting the domestic political damage, while at the same time saving face with Greece. Vikelidis was clearly miffed during the meeting and his tone was ominous as he pointed out that Albania still needs Greece for many things it is trying to achieve. How this will play out is uncertain right now, but it seems that the Albanian-Greek relationship is back to where it usually is: tense and complicated.

WITHERS